
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”). That Chapter makes provision for the acquisition and exercise of rights in relation to the management of premises to which the Chapter applies by a company which may acquire and exercise those rights (“RTM company”).

It was decided not to amend the 2003 Regulations but to revoke and replace them because the Department recognised that they are likely to be used by people who do not have access to professional advice. The Department considered it would be confusing for applicants to try and access two sets of regulations in order to set up their Right to Manage Company.

Before a RTM company can acquire the right to manage premises, it must give notice (“notice of invitation to participate”) to those tenants of flats contained in the premises who are “qualifying tenants” (see section 75 of the 2002 Act) of its intention to acquire the right. The notice must invite the recipients of it to become members of the RTM company. Regulation 3, to which Schedule 1 is also relevant, prescribes requirements, in addition to those specified in section 78 of the Act, as regards the contents of the notice.

Once the RTM company has given notice of invitation to participate, it may make a claim to acquire the right to manage. The claim is required to be made by notice (“claim notice”), that is to be given to each person who is—

- (a) landlord under a lease of the whole or any part of the premises to which the notice relates,
- (b) party to such a lease otherwise than as landlord or tenant, or
- (c) a manager appointed under Part 2 of the Landlord and Tenant Act 1987 to act in relation to the premises, or any premises containing or contained in the premises.

Regulation 4, to which Schedule 2 is also relevant, prescribes requirements as regards the contents of the notice in addition to those specified in section 80 of the 2002 Act.

A person who receives a claim notice may respond by giving the RTM company a counter-notice, in which the RTM company’s claim is either admitted or opposed. Regulation 5, to which Schedule 3 is also relevant, prescribes requirements as regards the contents of the notice. These are in addition to those specified in section 84 of the Act.

If a person who is entitled to receive a claim notice is also party to a contract under which the other party to the contract agrees to provide services, or do other things, in connection with any matter relating to a function that will be the function of the RTM company once it acquires the right to manage the premises, that person must give notice to the other party to the contract (“contractor notice”) and to the RTM company (“contract notice”). Regulations 6 and 7 prescribe requirements, in addition to those specified in section 92 of the Act, as regards contractor notices and contract notices, respectively. Regulation 8 prescribes the form of invitations to participate, claim notices and counter-notices. Forms of contractor notices and contract notices are not prescribed.

An impact assessment has not been prepared for this document.